

DOCKET FILE COPY ORIGINAL

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

Nov 16 9 15 AM '94

DISPATCHED BY  
FCC 94-292

In the Matter of )  
 )  
Policies and Rules Concerning ) CC Docket No. 94-129  
Unauthorized Changes of Consumers' )  
Long Distance Carriers )

**NOTICE OF PROPOSED RULE MAKING**

Adopted: November 10, 1994

Released: November 10, 1994

Comment Date: January 9, 1995

Reply Comment Date: February 8, 1995

By the Commission:

**I. INTRODUCTION**

1. The Commission, on its own motion, initiates this rule making proceeding<sup>1</sup> to review its policies and propose rules regarding unauthorized changes of consumers' long distance carriers, a practice commonly known as "slamming."<sup>2</sup> The Commission received over 1,700 complaints during Fiscal Year 1993 alleging unauthorized or unknowingly authorized changes of consumers' long distance carriers, and nearly 2,500 such complaints during Fiscal Year 1994. Although many of the complaints involve conversions resulting from telemarketing calls, a substantial number involve the use of potentially misleading or confusing letters of agency (LOAs) by interexchange carriers (IXCs).<sup>3</sup> An LOA is a document, signed by the customer, which states that a particular carrier has been selected as that customer's primary long distance carrier (also known as primary interexchange carrier). An LOA is also one

<sup>1</sup> See 47 C.F.R. §§ 1.1, 1.411.

<sup>2</sup> "Slamming" means the unauthorized conversion of a customer's interexchange carrier by another interexchange carrier, interexchange resale carrier, or a subcontracted telemarketer. Cherry Communications, Inc., Consent Decree, 9 FCC Rcd 2086, 2087 (1994).

<sup>3</sup> A consumer changes his or her PIC by requesting the change directly from the IXC or the IXC solicits the consumer through telemarketing or direct mail.

of the four order verification procedures we require IXCs to use before submitting primary interexchange carrier (PIC) change orders generated by telemarketing calls. These change orders are then presented to local exchange carriers (LECs), on behalf of potential IXC customers.<sup>4</sup>

2. In light of the complaints we have received, we seek comment on rules prescribing the form and content of LOAs. Specifically, we propose rules to require that IXCs that use LOAs deliver them to consumers as documents that are separate from other promotional or inducement materials -- that is, the LOA would be on a separate piece of paper, apart from any inducement materials within the same envelope. We propose that the LOAs do no more than authorize an IXC to initiate a PIC change, and that they be saliently identified as such. We propose to prohibit the attachment of any other document to the LOA and to bar IXCs from including inducements of any kind in the LOA.<sup>5</sup> Further, we propose to require the language of the LOA to be clear and unambiguous and the type to be of sufficient size and readable style to be clearly legible. In addition, we seek comment on several other issues pertaining to LOAs that have come to our attention as a result of consumer complaints.

## II. BACKGROUND

3. In its Allocation Order and subsequent Reconsideration Order and Waiver Order,<sup>6</sup> the Commission set forth rules and procedures for implementing equal access<sup>7</sup> and presubscription<sup>8</sup> to

---

<sup>4</sup> "Letters of agency" are also known as "letters of authorization," "orders for long distance service," and "customer commitments." For a discussion of the four verification procedures, see para. 5, infra.

<sup>5</sup> We believe that a LOA drafted to conform to the proposed rule will fit on a single sheet of paper with no attachments.

<sup>6</sup> Investigation of Access and Divestiture Related Tariffs, 101 FCC 2d 911 (1985) (Allocation Order), recon. denied, 102 FCC 2d 503 (1985) (Reconsideration Order); Investigation of Access and Divestiture Related Tariffs, 101 FCC 2d 935 (1985) (Waiver Order).

<sup>7</sup> Equal access for IXCs is that which is equal in type, quality, and price to the access to local exchange facilities provided to AT&T and its affiliates. United States v. American Tel. & Tel., 552 F. Supp. 131, 227 (D.D.C. 1982), aff'd sub nom. Maryland v. United States, 460 U.S. 1001 (1983) (Modification of Final Judgment or "MFJ"). "Equal access allows end users to access facilities of a designated [IXC] by dialing '1'

an IXC.<sup>9</sup> The Commission's original allocation plan required IXCs to have on file an LOA signed by the customer before submitting PIC change orders to the LEC on behalf of the customer. The LOA provides evidence that the customer had selected that IXC as its carrier.<sup>10</sup> IXCs, however, asserted that this requirement would stifle competition. They claimed that consumers, as a practical matter, frequently would not execute the LOAs even though they agreed to change their PIC. Consequently, they would remain presubscribed to the dominant IXC. In light of these objections, the Commission modified the requirement to allow IXCs to initiate PIC changes if they had "instituted steps to obtain signed LOAs."<sup>11</sup> Subsequently, the Commission denied a petition filed by the Illinois Citizens Utility Board that sought the adoption of additional rules governing PIC changes.<sup>12</sup> The Commission concluded that the rules in place at that time adequately protected consumers against "slamming." The Commission emphasized in that Order that consumers are not liable for the charges assessed by local exchange carriers for PIC changes that were not authorized by the consumers. Further, the Commission reiterated that LECs are not permitted to collect any charges from a consumer for changing the consumer's PIC if the consumer denies requesting the change and neither the LEC nor the IXC can produce sufficient evidence that the consumer requested the change. In most cases, that evidence would be the LOA.<sup>13</sup>

4. Despite the consumer protection mechanisms provided by the Commission's rules applicable to PIC changes, the Commission continued to receive complaints that some consumers had been

---

only." Allocation Order, 101 FCC 2d at 911 (end user also has the capability to use other IXCs by dialing access codes).

<sup>8</sup> Presubscription is the process that enables each customer to select one primary IXC, from among several available carriers, for the customer's phone line(s). Allocation Order, 101 FCC 2d at 928. A customer accesses the primary IXC's services by dialing "1" only. Id. at 911.

<sup>9</sup> Pursuant to the MFJ, the Bell Operating Companies (BOCs) were ordered to provide equal access to their customers by September 1986, where technically feasible. Id. at 911.

<sup>10</sup> Allocation Order, 101 FCC 2d at 929.

<sup>11</sup> Waiver Order, 101 FCC 2d at 942.

<sup>12</sup> Illinois Citizens Utility Board Petition for Rule Making, Memorandum Opinion and Order, 2 FCC Rcd 1726 (1987) (Illinois CUB Order).

<sup>13</sup> Id.

switched to other carriers without the consumers' permission. In January 1990, AT&T filed a petition requesting revision of the Commission's carrier selection rules. It alleged that unauthorized PIC changes had increased, causing inconvenience for consumers and forcing LECs to incur unnecessary expenses in resolving the resultant disputes.<sup>14</sup> AT&T concurrently filed suit against MCI Telecommunications Corporation (MCI) in Federal District Court in New Jersey, alleging that MCI had engaged in unfair telemarketing practices and unauthorized switching.<sup>15</sup> Subsequently, AT&T and MCI informed the Commission that they had settled their federal district court civil suits concerning their respective marketing practices, and as part of their settlement had agreed to propose that the Commission adopt certain safeguards designed to protect consumers against being switched without permission.<sup>16</sup>

5. In response to the AT&T/MCI petition, the Commission, in the PIC Change NPRM and its subsequent PIC Verification Order and PIC Verification Reconsideration Order, adopted rules and procedures for verification of long distance service telemarketing sales. Specifically, we required IXC's to institute one of four confirmation procedures before submitting PIC change orders generated by telemarketing on behalf of consumers to the LECs: (1) obtain the consumer's written authorization; (2) obtain the consumer's electronic authorization by use of an 800 number; (3) have the consumer's oral authorization verified by an independent third party; or (4) send an information package, including a prepaid, returnable postcard, within three days of the consumer's request for a PIC change, and wait 14 days before submitting the consumer's order to the LEC, so that the consumer has sufficient time to return the postcard denying, cancelling, or confirming the change order.<sup>17</sup>

6. Despite the adoption of these additional consumer safeguards, the Commission continues to receive complaints from consumers who allege that their PIC selections have been changed without their permission. Many of these complaints describe

---

<sup>14</sup> See generally American Telephone and Telegraph Company, Petition for Rule Making, CC Docket No. 91-64, Notice of Proposed Rule Making, 6 FCC Rcd 1689 (1991) (PIC Change NPRM); Policies and Rules Concerning Changing Long Distance Carriers, CC Docket No. 91-64, Report and Order, 7 FCC Rcd 1038 (1992) (PIC Verification Order), recon. denied, 8 FCC Rcd 3215 (1993) (PIC Verification Reconsideration Order).

<sup>15</sup> MCI had previously filed suit against AT&T on October 10, 1989, alleging deceptive advertising practices.

<sup>16</sup> PIC Verification Reconsideration Order, 8 FCC Rcd at 3215.

<sup>17</sup> See 47 C.F.R. § 64.1100.

apparently deceptive marketing practices in which consumers are induced to sign a form document that does not clearly advise the consumers that they are authorizing a change in their PIC. Consumers, for example, have complained that the "LOA" forms were "disguised" as contest entry forms,<sup>18</sup> prize claim forms, solicitations for charitable contributions,<sup>19</sup> or checks made payable to the consumer. Such inducement checks, which consumers must sign in order to cash, typically contain a statement near the signature line purporting to authorize a PIC change. Consumers may cash the checks without intending to change their long distance carrier. The Commission has also received complaints against IXC's because of "negative option LOA" forms. These forms typically offer prizes to consumers if they return the forms and may "require" consumers to check a box at the end of the form if they do not want to change their long distance service. The characteristic common to all of these marketing practices is that the inducement is combined with the LOA and the inducement language is prominently displayed on the inducement/LOA form while the PIC change language is not, thus leading to consumer confusion. Consumers assert that when they enter the contests, claim the prizes, respond to the charity solicitations, or endorse the checks, they did not intend to switch their long distance carriers.

---

<sup>18</sup> We have received numerous complaints regarding this type of inducement/LOA form. The issuing IXC induces the consumer to sign the form by offering the consumer a chance to win such items as a Hawaiian vacation, a new car, or cash. Although the contest inducements are typically displayed prominently, the LOA language is usually printed in small-point type.

<sup>19</sup> LOA forms that are combined with solicitations for charities usually are also combined with other contests. Typically, consumers are asked to enter a cash drawing and are told that by signing the entry form, some percentage of their long distance bill will be donated to a "charitable organization" such as an "abused family charity," a "missing children's fund," or a "national children's charity." The Common Carrier Bureau, in 1993, issued a letter of admonition to Matrix Telecom for using a deceptive LOA to convert consumers to its long distance service. Matrix offered consumers a chance to win a cellular phone and airline tickets. Matrix also told consumers that by signing the form they were helping the "kids" in the community through a special program. Letter from Kathleen B. Levitz, Acting Chief, Common Carrier Bureau to Dennis Miga, Managing Partner, Matrix Telecom, 8 FCC Rcd 5512 (Com. Car. Bur. 1993).

### III. DISCUSSION

#### A. Proposed Rule

7. We continue to believe that the LOA is a useful and important consumer protection mechanism; we believe it necessary to amend the rules to ensure that when consumers sign a LOA, they are aware that they are authorizing a change in their long distance telephone service.<sup>20</sup> The requirement that IXC's must obtain LOAs for resolving disputes regarding changes in customer service was "designed to ensure that end users were afforded protection both from mistakes made by the LECs during the conversion process and from [IXC] marketing abuses."<sup>21</sup> Although we have prescribed the minimum information that must be included in the LOA form,<sup>22</sup> the numerous consumer complaints concerning LOAs indicate that some carriers have abused the flexibility granted by the current rules to create LOAs that mislead consumers with respect to the nature and purpose of the documents. Such IXC's, among other things, have combined inducements with LOAs in the same document in such a way as to mislead or confuse consumers. Accordingly, we find it necessary to propose rules clearly delineating what must be included in an LOA document and, equally important, what may not be included in an LOA document. The proposed rules are intended to limit the contents of an LOA document so that its sole purpose and effect are to authorize a PIC change. The proposed restrictions should eliminate consumer confusion about the intent of the form.

8. Our previous orders on this subject guide the formulation of our proposals here. The letter of agency procedure set forth in the Allocation Order permits all IXC's to seek customer commitments to use their services and designate the IXC as the potential customer's primary IXC. Under that order, written commitments must be in the form of a statement signed by the customer and at a minimum must contain the following provisions: (1) the customer designates the IXC to act as the customer's agent for the presubscription process; (2) the customer understands that only one IXC may be designated as the customer's primary IXC for any one telephone number and that selection of multiple carriers will invalidate all such selections; (3) the customer understands that any primary IXC selection after the initial balloting will involve

---

<sup>20</sup> See Illinois CUB Order, 2 FCC Rcd at 1729; see also Allocation Order, 101 FCC 2d at 929.

<sup>21</sup> Illinois CUB Order, 2 FCC Rcd at 1729.

<sup>22</sup> Allocation Order, 101 FCC 2d at 929.

a charge to the customer; and (4) the specific telephone number(s) for which the primary IXC is being designated must be listed.<sup>23</sup>

9. Specifically addressing telemarketing, the Commission issued a simplified restatement of the minimum requirements for an LOA as set forth in the Allocation Order in the PIC Verification Order which provides that any LOA obtained by an IXC must be signed by the customer, explain what occurs when a PIC is changed, and confirm: (1) the customer's billing name and address and each telephone number to be covered by the PIC change order; (2) the customer's decision to make the IXC his or her PIC; and (3) the customer's understanding of the PIC change fee.<sup>24</sup>

10. Subsection (d) of our proposed rule<sup>25</sup> restates and organizes the LOA requirements of the Allocation Order and the PIC Verification Order into one standard rule. We propose that the LOA contain clear and unambiguous language that confirms: (1) the customer's billing name and address and each telephone number covered by the PIC change order; (2) the customer's decision to replace his or her current PIC with the IXC soliciting the LOA; (3) the customer's designation of the IXC to act as the customer's agent for the PIC change; (4) the customer's understanding that only one IXC may be designated as the customer's PIC; and (5) the customer's understanding that any PIC selection he or she makes may lead to a PIC change charge for the customer. In addition, we seek comment on whether we should require the phone number to be preprinted on the LOA. Although we seek comment on whether the Commission should prescribe specific language for the LOA, we believe that IXCs acting in good faith can implement these minimum guidelines without difficulty.

11. Based on our investigation of hundreds of consumer complaints concerning LOAs, we find that much of the abuse, misrepresentation, and consumer confusion occur when an inducement and an LOA are combined in the same document, often on the same piece of paper. Therefore, we propose to require the LOA to consist of a separate document -- that is, a separate piece of paper that contains no inducements. We believe that these restrictions will prohibit certain current deceptive marketing practices. Our proposed rule would, for example, prohibit the use of forms that combine LOAs with contest entry forms, checks, or other negotiable instruments. The proposed rule would also prohibit "negative option" LOAs, which require consumers to take some action to avoid having their long distance service changed.

---

<sup>23</sup> Id.

<sup>24</sup> PIC Verification Order, 7 FCC Rcd at 1048; see 47 C.F.R. § 64.1100.

<sup>25</sup> The proposed rule is set forth in Appendix A.

12. We do not propose to prohibit inducements altogether because they may be proper and effective marketing devices for attracting customers to an IXC's service. We believe, however, that physically separating the LOA document from the inducement material within the same envelope will significantly reduce consumer confusion over the LOA. As long as the inducement and the formal LOA are separate, clear, and unambiguous, it appears that there should be little chance of consumer confusion. Although we are not proposing changes in this regard, we seek comment on whether inducements of any kind should be prohibited altogether and, if not, whether the Commission should prohibit inducements from being mailed in the same envelope as the LOA.

13. Further, we propose to require the text of the LOA to be clear and unambiguous and to be printed in type that is sufficiently large and of such a style to be clearly legible. We seek comment on whether we should prescribe the text of the LOA, the font, and its point size. We invite parties that support such requirements to submit specific suggestions.

#### B. Other Unauthorized Conversion Issues

14. We have also received many complaints describing other consumer problems arising from misleading LOAs. In light of those complaints, we seek comment on several other issues pertaining to LOAs, including whether LOAs should contain only the name of the carrier that directly provides the interexchange service to the customer. We recognize that there may be more than one carrier technically involved in the provision of long distance service to a consumer. For example, there may be an underlying carrier whose facilities provide the long distance capacity and a resale carrier that actually sets the rates charged to the end user consumer. In some cases, there also may be a carrier that acts as a billing and collection or marketing agent. One possible approach to this problem would be to allow an LOA to name only the IXC that is actually setting the rates, and to prohibit the inclusion of the name of any carrier providing the underlying interexchange capacity to the reseller. We seek comment on whether we should restrict the LOA so that only the IXC that actually sets the rates for the customer is identified in the LOA. Alternatively, we also seek comment on whether other carriers' names can be included in the LOA without misleading or confusing consumers, if their roles are clearly described.<sup>26</sup>

---

<sup>26</sup> In our rule making proceeding on operator services, we considered an analogous issue regarding "branding", which is the process by which an operator service provider audibly and distinctly identifies itself to each person who uses its operator services. There, we said that, if more than one carrier is involved with the provision of long distance service, "[w]e see no reason for prohibiting parties involved



15. We also seek comment on whether business and residential customers should be treated differently with respect to our LOA requirements. Unlike the situation with residential customers, LOA forms sent to businesses might not be received and processed by the person authorized to order long distance presubscription for the business. Thus, even an LOA that is properly executed may result in an unauthorized change insofar as the person who executed the LOA had no authority to do so.

16. We also seek comment on the effect that unauthorized PIC conversions have on optional calling plans and the consumers enrolled in them. In cases of unauthorized PIC conversions, the consumer may not be aware of the change for at least one billing cycle. Often, these consumers continue to pay a flat, minimum monthly charge to their previous carrier for a discount calling plan despite the fact that they are no longer presubscribed to that carrier.<sup>27</sup> We seek comment on whether we should absolve these consumers of liability for any payments to optional calling plans after unauthorized conversions. Alternatively, we seek comments on the means or procedures, if any, that might be used to help consumers recoup their losses in this situation.

17. We also seek comment on whether any adjustments to long distance telephone charges should be made for consumers who are the victims of unauthorized PIC conversions. Specifically, we seek comment on whether consumers should be liable for the long distance telephone charges billed to them by the unauthorized IXC and if so, to what extent. Should consumers be liable for: (a) the total billed amount from the unauthorized IXC; (b) the amount consumers would have paid if their PIC were never changed; (c) or nothing at all?

18. We have received complaints alleging that some IXCs target non-English speaking consumers with bilingual and non-English inducements and LOAs. These consumers allege that the non-English versions of the LOA do not contain all of the text of the English versions of the LOA. As a result, material portions of the LOA are in only one language, typically English, which the non-

---

in rate-setting from deciding which party will be named in the brand. However, we prohibit parties from branding in the name of another party if rates are merely modeled on or copied from that party's rates and that party has not consented to the use of its name in the brand." See Policies and Rules Concerning Operator Service Providers, CC Docket No. 90-313, 6 FCC Rcd 2744, 2757 (1991).

<sup>27</sup> These consumers may still access the previous IXC's long distance service by using the 10XXX access code, but it is unlikely that many customers intend to use an optional calling plan in this manner.

English speaking consumers may not fully understand. We seek comment on whether we should adopt rules to govern bilingual or non-English language LOAs.<sup>28</sup> For example, should we require all parts of the LOA to be translated if any parts are translated? We also seek comment on whether all LOAs should be required to be captioned "An Order to Change My Long Distance Telephone Service Provider" or given some other title that is more descriptive and less technical.

19. Finally, we seek comment on how consumers have been affected by the IXC marketing practice of "encouraging" consumers who call an IXC's 800 number to switch to that IXC, even when the consumers' calls are not initiated for the purpose of changing PICs. Typically, the consumers respond to an advertisement and are just requesting information about the IXC. It may be argued that because the IXC does not initiate the call, the PIC order is not generated by telemarketing and thus the order verification protections in Section 64.1100 of our rules do not apply. We seek comment on whether an 800 number should be used only for verification purposes or whether it could be used, with proper safeguards, for verification purposes and placing initial orders. Finally, we seek comments on what those safeguards might be.

#### IV. REGULATORY FLEXIBILITY ACT INITIAL ANALYSIS

20. Reason for action. The Commission is issuing this Notice of Proposed Rule Making to protect consumers from unauthorized switching of their long distance carriers and to ensure that consumers are fully in control of their long distance service choices.

21. Objectives. The objective of this Notice of Proposed Rule Making is to initiate a proceeding to propose requirements and seek comments regarding unauthorized changes of consumers' long distance carriers.

22. Legal Basis. Sections 1, 4(i), 4(j), 201-205, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151, 154(i), 154(j), 201-205, 303(r).

23. Description, potential impact, and number of small entities affected. The proposed rules will require that interexchange carriers separate their LOA forms from any promotional inducements. Small entities may feel some economic impact in additional printing costs due to the proposed letter of agency requirements. However, all IXCs who submit orders to LECs on behalf of customers now are required to institute steps to

---

<sup>28</sup> We intend that our proposed rules in this proceeding apply to any bilingual or non-English LOAs.

obtain signed LOAs from customers. Therefore, all IXCs should be incurring printing costs for LOAs with sufficient advance notice, IXCs could revise and print new LOAs when their old inventory of LOAs is exhausted.

24. Reporting, recordkeeping, and other compliance requirements. The proposed rules impose no reporting requirements and no new recordkeeping requirements. Carriers are currently required to obtain and retain records of customer orders.

25. Federal rules which overlap, duplicate, or conflict with the Commission's proposal. None.

26. Any significant alternatives minimizing impact on small entities and consistent with stated objectives. None.

27. Comments are solicited. We request written comments on this Initial Regulatory Flexibility Analysis. These comments must be filed in accordance with the same filing deadlines set for comments on the other issues in this Notice of Proposed Rule Making, but they must have a separate and distinct heading designating them as responses to this Regulatory Flexibility Analysis. The Secretary shall send a copy of the Notice to the Chief Counsel for Advocacy of the Small Business Administration in accordance with Section 603(a) of the Regulatory Flexibility Act. See 5 U.S.C. § 601, et seq.

## V. EX PARTE REQUIREMENTS

28. This is a non-restricted notice and comment rule making proceeding. Ex parte presentations are permitted, except during the Sunshine Agenda period, provided they are disclosed as provided in Commission rules.<sup>29</sup>

## VI. ORDERING CLAUSES

29. Accordingly, IT IS ORDERED, pursuant to Sections 1, 4(i), 4(j), 201-205, 218, 226, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. § 151, 154(i), 154(j), 201-205, 218, 226, 303(r), that a NOTICE OF PROPOSED RULE MAKING IS ISSUED, proposing the amendment of 47 C.F.R. Part 64 as set forth in the Appendix.

30. IT IS FURTHER ORDERED, that pursuant to applicable procedures set forth in Sections 1.415 and 1.419 of the Commission's Rules, 47 C.F.R. §§ 1.415, 1.419, comments SHALL BE FILED with the Secretary, Federal Communications Commission,

---

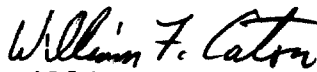
<sup>29</sup> See generally 47 C.F.R. §§ 1.1202, 1.1203, and 1.1206(a).

Washington, D.C. 20554 on or before January 9, 1995. Reply comments should be filed no later than February 8, 1995. To file formally in this proceeding, participants must file an original and four copies of all comments, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. In addition, parties should file two copies of any such pleadings with the Formal Complaints Branch, Enforcement Division, Common Carrier Bureau, Plaza Level, 1250 23rd Street N.W., Washington, D.C. 20554. Parties should also file one copy of any documents filed in this docket with the Commission's copy contractor, International Transcription Services, Room 140, 2100 M Street N.W., Washington, D.C. 20037. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (Room 239) of the Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554.

31. IT IS FURTHER ORDERED, that the Chief of the Common Carrier Bureau is delegated authority to require the submission of additional information, make further inquiries, and modify the dates and procedures if necessary to provide for a fuller record and a more efficient proceeding.

32. IT IS FURTHER ORDERED, that the Secretary shall mail a copy of this Notice of Proposed Rule Making to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. § 603(a). The secretary shall also cause a summary of this Notice to appear in the Federal Register.

FEDERAL COMMUNICATION COMMISSION

  
William F. Caton  
Acting Secretary

## **APPENDIX A**

Part 64 of the Commission's Rules and Regulations, Chapter I of Title 47 of the Code of Federal Regulations, is amended as follows:

1. The authority citation for Part 64 continues to read as follows:

**AUTHORITY:** Sec. 4, 48 Stat. 1066, as amended; 47 U.S.C. 154, unless otherwise noted. Interpret or apply secs. 201, 218, 226, 228, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 201, 218, 226, 228, unless otherwise noted.

2. Part 64, Subpart K, is amended by adding Section 64.1150 to read as follows:

### **§ 64.1150 Letter of Agency Form and Content**

(a) An interexchange carrier shall obtain any necessary written authorization from a subscriber for a primary interexchange carrier change by using a letter of agency as specified in this section. Any letter of agency that does not conform with this section is invalid.

(b) The letter of agency shall be a separate document whose sole purpose is to authorize an interexchange carrier to initiate a primary interexchange carrier change. The letter of agency must be signed and dated by the subscriber to the telephone line(s) requesting the primary interexchange carrier change.

(c) The letter of agency shall not be combined with inducements of any kind on the same document.

(d) At a minimum, the letter of agency must be printed with a type of sufficient size and readable type to be clearly legible and must contain clear and unambiguous language that confirms:

- 1) the subscriber's billing name and address and each telephone number to be covered by the primary interexchange carrier change order; and
- 2) the decision to change the primary interexchange carrier from the current interexchange carrier to the prospective interexchange carrier; and

3) that the subscriber designates the interexchange carrier to act as the subscriber's agent for the primary interexchange carrier change; and,

4) that the subscriber understands that only one interexchange carrier may be designated as the subscriber's primary interexchange carrier for any one telephone number and that selection of multiple carriers will invalidate all such selections; and

5) that the subscriber understands that any primary interexchange carrier selection they choose may involve a charge to the subscriber for changing the subscriber's primary interexchange carrier.

(e) Letters of agency shall not purport to instruct the subscriber to take some action in order to retain the subscriber's current interexchange carrier.